

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:15-CT-3193-D

JAMES C. McNEILL,

Plaintiff,

v.

LIEUTENANT NORRIS, et al.,

Defendants.

ORDER

On July 23, 2018, Magistrate Judge Numbers issued a Memorandum and Recommendation ("M&R") [D.E. 92], in which he denied James C. McNeill's ("McNeill") motions for default judgment [D.E. 79, 81] and recommended granting defendants' motions for summary judgment [D.E. 55, 61]. McNeill objected to the M&R [D.E. 93]. McNeill also renewed his motions for default judgment [D.E. 83, 88] and filed a motion for preliminary injunction [D.E. 84].

McNeill's motions for default judgment [D.E. 83, 88] and for a preliminary injunction [D.E. 84] are premised upon incidents unrelated to this action. To the extent McNeill asserts prison officials are interfering with his legal mail or otherwise preventing him from litigating this case, McNeill's numerous filings belie that claim. In any event, if McNeill seeks relief for any of these alleged incidents, he must file separate actions under 42 U.S.C. § 1983. Furthermore, the court denies as baseless McNeill's motions for default judgment and motion for injunctive relief. See Fed. R. Civ. P. 55(a); Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008).

"The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made." Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)


(emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

McNeill’s objections reiterate arguments stated in his complaint, and his objections do not meaningfully rebut the M&R’s recommendations. Compare M&R [D.E. 92] 8-10, with [D.E. 93]. Because McNeill’s boilerplate objections fail to meaningfully rebut the M&R, de novo review is not required. See, e.g., Wells v. Shriners Hosp., 109 F.3d 198, 200–01 (4th Cir. 1997); Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982).

Alternatively, McNeill’s objections lack merit. Essentially, McNeill contends defendants used excessive force against him, were deliberately indifferent to his injuries, and fabricated evidence in the video and in the medical record. See [D.E. 93]. Judge Numbers thoroughly examined the record (including the video evidence) and concluded that defendants are entitled to summary judgment. See M&R at 7–12. This court has conducted de novo review and agrees with that conclusion.

In sum, the court DENIES McNeill’s motions for default judgment [D.E. 83, 88] and for a preliminary injunction [D.E. 84], OVERRULES McNeill’s objections [D.E. 93], ADOPTS the conclusions in the M&R [D.E. 92], GRANTS defendants’ motions for summary judgment [D.E. 55, 61], and DISMISSES McNeill’s claims. The clerk shall close the case.

SO ORDERED. This 16 day of August 2018.



JAMES C. DEVER III
Chief United States District Judge